

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of May 1, 2012 Meeting

Present: David DeAngelis-Chair, John Bart–Vice Chair, Barry Nickerson, Ronald Del Vecchio, Mark Enander, Lori Lyle, Anthony DeSisto, Esq. (Town Solicitor)

Absent: John Barr

Minutes

Motion made by Member Bart to approve Minutes from the April 2012 meeting as presented. Motion seconded by Member Lyle. Motion carried by all present.

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American Beauty Signworks, 345 Providence Street, Woonsocket, RI/Wake Robin Associates LLC, 2 Wake Robin Road, Lincoln, RI – Application for a Special Use Permit requesting additional signage for Lincoln Urgent Care located on Route 116, Lincoln, RI.

AP 28, Lot 151 Zoned: BL 0.5

Represented by: Joseph Raheb, Esquire

Vice Chair Bart recused himself from this application. Member Del Vecchio sat with full privileges.

Chair read into the record standards that need to be met for a Special Use Permit. Property sits on 2.5 acres at the corner of Wake Robin Road and Route 116. Submitted into the record as Exhibit #1 photo depicting location of original monument sign/ Exhibit #2 proposed sign dimensions/Exhibit #3 Site plan of area/Exhibit #4 Photo of sign on building/Exhibit #5 Depiction of additional 49 sq.ft. sign/Exhibit #5 Photo depicting sign on building and monument sign.

Two signs for commercial site are not allowed without Special Use Permit. Applicant is seeking 49 sq. ft relief. Monument totals 64 sq.ft. Proposed sign fits in with neighboring businesses and should not have a negative impact on the area. Lighting will provided for the two signs.

Witness:

Oscar Hancock, Employee

Signs will be lit by photocell and goes off at dusk.

Witness

Celeste Nadwody, Registered Nurse Manager

Hours of operation are 9am-9pm Monday through Friday and 9am-5pm on Saturday and Sunday. Lights can be set on a timer to comply with town lighting ordinance.

Chair read into the record Planning Board/Technical Review

Committee recommendations:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. Based on the location and nature of the commercial business, the Planning Board recommends Approval of this application. The proposed application is to add additional signage to an existing pillion sign. The sign ordinance only permits one sign per commercial business. This application is requesting a special use permit to have two signs for one commercial business. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

No opposition present.

Motion made by Chairman DeAngelis to approve the application for Special Use Permit with condition that signs lighting be turned off at night when facility is closed. He further stated:

- That the Special Use is specifically authorized under this Ordinance**
- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use**
- That the granting of the Special Use will not alter the general character of the surrounding area**
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan**

Motion to approve seconded by Member Enander. Motion carried by all present.

Jeffrey and Kathleen Lisi, 58 South Eagle Nest Drive, Lincoln, RI – Application for Dimensional Variance seeking side setback relief for an existing accessory structure and storage shed.

AP 40, Lot 87 Zoned: RA 40

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Chair read into the record standards that need to be met for a Dimensional Variance.

Applicants have owned the property for 4.5 years. Applicant has constructed an accessory structure without pulling a permit and Zoning Official issued a stop order on the construction. Applicant was unaware he needed to pull a permit. Contractor pulled permits for the installation of the inground pool. Once completed the accessory structure will be 867 sq. ft. – needs 367 sq. ft relief. Abutters have no objection to the accessory structure and submitted letters into the record numbered Exhibit #1 (McCourt), Exhibit #2 (Gillen) and Exhibit #3 (Gordhandas).

Chair read into the record as Exhibit #4 correspondence dated 4/30/12 from Kenneth G. Pichette, Lincoln Town Council District 5.

Witness

Edward Pimental

The accessory structure is larger than the 500 sq. ft required by town ordinance. He looked at other homes in the area with sheds and cabanas. The shed and cabana is considered one structure. If applicant were to remove the overhang it would comply with the town ordinance. The applicants were unaware that a permit was needed. Inground pool and cement slab were installed four years ago and contractor pulled those permits. It would be inconvenient for applicant to remove the overhang to bring into compliance. The enclosed portion of the accessory structure is 288 sq. ft. Height of the structure is fifteen feet.

Witness

Kathleen Lisi, Applicant

They move into the house 4.5 years ago and installed an inground pool. There is a lot of ledge and boulders in the back yard. Husband built the cabana/storage shed. Neighbors support what they are doing – no opposition. Exterior of cabana matches existing house. Husband started construction last summer and received stop work notice in September 2011.

Jeffrey Lisi, Applicant

Member Bart asked if he had any construction experience. Mr. Lisi replied he started construction on the cabana in July 2011 and had no prior building experience and friends helped him. Contractor pulled the necessary permits when the pool was installed 4.5 years ago. It was always his intention to put in a pool and have a cabana when they purchased the property.

Applicant measured the shed itself without including the soffits or overhang for square footage. Applicant drew plans himself and did not measure for the cement slab which was poured when the pool was installed. No utilities in the shed/cabana.

Chair read into the record Planning Board/Technical Review Committee recommendation: Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of the application for a dimensional variance seeking side setback relief for an existing accessory structure and storage shed. The existing accessory structure was constructed without a building permit. The Planning Board feels that the application does not meet any of the standards for relief of a dimensional variance as presented in the Zoning Ordinance. The applicant did not offer any compelling reasoning as to why the accessory structure must be located in its current location. The submitted site plan clearly shows that the applicant has sufficient room within the property setbacks to locate accessory structures. The Planning Board feels that the current site

plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land.

In Favor

Alfred Castiglioni, 56 South Eagle Nest Drive, Lincoln, RI

Owns property next door and feels the shed provides some privacy.

Has no objection to the size or placement of the shed/cabana.

Robert DiSpirito , 41 South Eagle Nest Drive, Lincoln

Lives across the street and has no objection to the structure or its location.

Lisa DiSpirito

Adds property value to the neighborhood.

Dorothy Pereira, 54 South Eagle Nest Drive, Lincoln, RI

Has no objection – looks nice.

Julie Zito, 335 Albion Road, Lincoln, RI

Fence around the cabana provides a buffer from the highway. Feels it would be financially harmful if the cabana were removed.

No opposition present.

Motion made by Member Nickerson to deny the application. He felt

the applicant did not meet the standards required for a Dimensional Variance application. If the Board were to approve the application it may set a precedent for future applications. Motion to deny seconded by Member Enander. Motion to deny carried by Members Bart, DelVecchio, Enander, Nickerson and DeAngelis.

Presidio Partners, LLC, 1092 Great Road, Lincoln, RI – Application for Dimensional Variance seeking rear yard relief for the construction of a new home on a vacant lot located on Presidential Way.

AP 26 Lot 291 Zoned: RA 40

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Chair read into the record standards that need to be met for a Dimensional Variance.

Russell Hervieux, Zoning Official informed the Board one notice had been returned – John Howard, 72 Capwell Avenue, Pawtucket, RI. Address matched Town records and this is not an insufficient notice. Attorney Shekarchi told the Board he contacted Mr. Howard who stated he had no objection to the application.

Attorney Shekarchi stated this is an irregularly shaped lot and submitted into the record as Exhibit #1 Planning Board approval of subdivision plat map and Exhibit #2 a site plan prepared by Steven Long.

Witness

Edward Pimental

Deed restriction is on file stating structure must have 3,200 square feet of living area. First floor of the proposed structure will have 2,112 square feet living area. Cannot fit proposed home in footprint envelope – would be injurious to the neighborhood. Only rear and deck violate rear requirements. Meets all other burdens. Lot purchased 1.5 years ago.

Attorney DeSisto stated the exhibit shows the building envelope. The buyer can rely that it is a buildable lot because the Planning Board approved it. Applicant came before the Board based upon limitations placed on the property. Can the applicant rely that Lot 7 is a buildable lot with restrictions. Russell Hervieux replied that restrictions can only be enforced by the Town if it is part of the final plan. Attorney Shekarchi stated the abutter to the right of the property has no objection to what is being proposed.

Chair read into the record Planning Board/Technical Review Committee recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Denial of the application for dimensional variances seeking rear yard relief for the construction of a new home. The Planning Board feels that the application does not meet any of the

standards for relief of a dimensional variance as presented in the Zoning Ordinance. The applicant does not offer any compelling reasoning as to why a new house cannot be designed to fit within the existing building envelope. The submitted site plan and building envelope clearly shows sufficient room to build a house on. The Planning Board feels that the application did not present examples of any efforts to design a house that would fit onto the unique building envelope. The submitted house plans do not represent the least relief necessary. The Planning Board feels that the applicant can easily design and construct a new house that would not require any variances.

No opposition present.

Chairman DeAngelis made a motion to approve the application for Dimensional Variance seeking 29.43 rear yard southeast corner relief stating:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln**

Zoning Ordinance or the Lincoln Comprehensive Plan.

- **The relief requested is the least relief necessary.**
- **The hardship amounts to more than a mere inconvenience.**

Motion to approve seconded by Member Nickerson. Motion carried by all present.

Margaret O'Neill, 5 Sunview Street, Lincoln, Rhode Island – Application for a Special Use Permit to convert a single family home with in-law apartment into a two family home.

AP 13, Lot 19 Zoned: RL-9

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Chair read into the record standards that need to be met for a Special Use Permit.

Applicant wants to convert an in-law apartment into a 2nd apartment. Property is legal pre-existing use. There is adequate parking at the site.

Witness

Edward Pimental

In-law apartment is already laid out as a second unit with a separate entrance. Each unit will have its own driveway. There are other two units households in the area. Proposed use is authorized and will

have no negative impact on the neighborhood.

Witness

David Heoa, Buyer

He will reside on the first floor and rent out the second unit. There will be no exterior changes and any improvements at the site will meet Town codes.

Chair read into the record Planning Board/Technical Review Committee recommendation: Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The proposed special use permit is to permit the conversion of a single family home with in-law apartment into a two family home. According to our Zoning Ordinance, a two family house is allowed within this zoning district by a special use permit if the lot has a minimum of 9,000 square feet of land plus an additional 1500 square feet for a total lot square footage of 10,500 square feet. The existing lot has a total square footage of 19,298 square feet. Parking is proposed to be located off of Sunview Street and Maplehurst Street. According to the submitted application, no additional exterior construction will be required. The Planning Board recommends Approval with Conditions of this application. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan. The condition of approval is that the applicant must develop the existing house

according to the Building Code standards for a two family house.

No opposition present.

Motion made by Member Lyle to approve the application based on the application presented to the Board. Motion seconded by Chairman DeAngelis. Motion carried by all present.

Motion made by Member Enander and seconded by Member Bart to adjourn the meeting. Motion carried by all present.

Respectfully submitted,

Ghislaine D. Therien

Zoning Secretary